

Rochester Land Bank Corporation

Meeting Minutes

April 16, 2015

City Hall, Rm. #223-B

30 Church Street,

Rochester, NY 14614

Board Members Present: Andrea Guzzetta, Kim Jones, Gary Kirkmire, Dana Miller, Kate Washington, Carol Wheeler

Board Members Absent: George Parker

Non-Board Members Present: Joe Biondolillo, Mark Gregor, Maritza Mejias, Rianne Mitchell, Kathy Sheets, Tom Warth

The meeting was called to order at 3:04 pm by Carol Wheeler, Board Chair.

The minutes from the last meeting were distributed. Kate Washington moved that the minutes be approved. Dana Miller seconded. The motion was approved by the board.

Mark Gregor and Joe Biondolillo from the City's Division of Environmental Quality (DEQ) attended the meeting to discuss the environmental due diligence process for Land Bank acquisitions and the recent changes to the New York State Brownfield Program legislation and funding. Mark Gregor gave an overview of the standard due diligence performed by the City as determined by the type of acquisition. To a large extent, the level of inquiry performed is based on access. When the City is permitted access, it follows, and often exceeds, federal regulations about what constitutes "all appropriate inquiry" – the level of scrutiny that protects municipalities from strict liability for environmental contamination. A Phase I environmental assessment is required for any possible Brownfield acquisition; for any property that will benefit from EPA grant funds; and for an affirmative defense against CERCLA charges. Joe Biondolillo oversees the site investigations. Residential properties acquired for use as housing receive additional review.

Review of properties for a lien sale or prior to foreclosure action is, of necessity, less stringent than a phase I. In such cases more than a thousand properties must be reviewed in a limited period of time. In both instances properties are compared to relevant databases that have been prepared by DEQ of sites with EPA, DEC and/or other environmental agency files. When there is the possibility that the City may take ownership of properties, as in the case of tax foreclosure, historical records (i.e. - City records of permits, historical land use, Sanborn Maps, plat maps, aerial photos, and deeds) are reviewed. Following review, properties on the lists are rated as high, moderate or low risk. Delaying foreclosure is recommended for high risk properties until adequate arrangements for any necessary cleanup can be identified. Those characterized as at moderate risk for environmental contamination, such as current or former gas stations or dry cleaners, are, if they are acquired by the City, flagged for further review prior to resale. Low risk properties are subject to no further action. Environmental due diligence for direct acquisitions made by the City vary on the basis of property use. Commercial or Industrial properties are almost always subject to a site assessment, whereas site assessment of residential properties will be predicated on the results of a review of historical records.

Mark Gregor noted that the legislative changes to the Brownfield Cleanup Program (BCP) represent the most balanced approach that he had yet seen. A DEC summary of the legislation outlines the highlights:

- Redevelopment Phase tax credits have been limited to property with an estimated life of at least 15 years, permanent equipment or machinery, and developer fees that were actually paid; in the City's case this would mean that some tax credits can be transferred to a developer, making a project more commercially attractive.
 - Environmental Zones (EN-Zones) are eligible for an additional five percent tax credit; Fifty percent of the city of Rochester is located in an EN-Zone
 - Brownfield Opportunity Areas (BOAs) are eligible for an additional five percent tax credit; there are four BOAs in the city of Rochester constituting 18-19 acres of land
 - Developments that result in Affordable Housing or in manufacturing are also eligible for an additional five percent tax credit
- The requirement for program participants to pay DEC oversight costs for Volunteers (essentially paying the State to do the review the State has mandated) has been eliminated.
- BCP-EZ, which facilitates and makes cleanup programs more expeditious at the expense of without the tax credits available to standard BCP projects, allows developments that don't need the tax credits to still obtain the liability release benefit of the BCP; this will be particularly useful for public works projects.

Tom Warth asked whether the BCP-EZ liability release is transferrable. Mark Gregor answered that it is.

- Ten percent of the \$100 million per year budget may be used for the Environmental Restoration Program (ERP), which funds cleanup for municipally-owned Brownfield sites, and for which there is no cap on the funding.

In addition to these recently enacted changes, ~~NYSERDA~~ the NY Land Bank Association is proposing additional changes to the ERP that include a provision treating land banks as municipalities in regards to participation in the ERP. These changes are those that had been previously circulated to the Board. The City has decided to support them and they are included in the NY Land Bank Association's legislative agenda (the Board would be voting on whether to support the NYLBA legislative agenda during the current meeting). Tom Warth asked whether the \$10 million that can be devoted annually to ERP is enough to make a difference. Mark Gregor explained that as the previous allocation was \$14 million over a ten-year period, it will make a significant difference. It is enough to allow municipalities to program and plan rather than use it to respond to emergencies. Mark also noted that there is an additional \$20 million that will become available for municipal environmental remediation once the governor and the state legislature sign a memorandum of understanding. He suggested it might be worthwhile to mention the MOU when meeting with the local legislative delegation. Joe Biondolillo added that the state does cost recovery under the ERP rather than the municipality, which may make Land Bank participation in the program even more feasible.

Kathy Sheets returned to the topic of due diligence prior to acquisition, asking whether the Land Bank will need an additional review prior to using the Trump Bid at the City tax foreclosure auction. Mark Gregor said that he did not feel anything additional was needed unless something was specified in the Land Bank's governing legislation. Tom Warth noted that, while there was no specific environmental review requirement within the

Land Bank Bank Act, the City's standard review prior to a foreclosure auction would not meet the standard of "all appropriate inquiry" the Land Bank would need for properties it acquired by Trump Bid. Mark Gregor asked how many properties the Land Bank planned to purchase at the Tax Foreclosure Auction. Kathy Sheets indicated that it might amount to a several dozen. Mark indicated that that number of properties could certainly be reviewed with the same standard of care as those the City might acquire. Joe Biondolillo asked for as much notice as possible so that the review of Land Bank properties could be scheduled so as not to disrupt the process of review for the City.

The board next discussed Resolution No. 5 of 2015 to support the legislative proposals of the New York Land Bank Association. Tom Warth gave a description of the Association's legislative agenda that been distributed to the board at the previous meeting. Regarding changes to the Land Bank Act, the item that will have the most direct effect on Rochester's activities will be the waiving of the 90-day notice requirement for property transactions of more than \$100,000. Also included are support of the proposed changes to the ERP discussed earlier in the meeting and support of the recently reintroduced Zombie Property legislation. Carol Wheeler noted that a key component of the Zombie Property legislation is that fines of \$1,000 per penalty that can be charged to banks for noncompliance. Gary Kirkmire noted that the statewide registry of vacant, abandoned properties may be even more significant in fighting blight. Kathy Sheets explained that the state will be handling enforcement against the banks, but will make the resulting funds made available to municipalities for code enforcement activities. Carol Wheeler pointed out that not only does the resolution offer formal support of these proposals, but authorizes the Executive Director to make the necessary expenditures for travel to support them in Albany. Dana Miller moved that the resolution be approved; Andrea Guzzetta seconded. The board voted to approve the resolution.

The Treasurer recommended that the resolution to approve the revision to the audited financial statements be postponed to a vote via email to allow the board to vote on the final report as opposed to the draft. The board agreed.

The resolution presented to the board to approve the 2015 Budget and Financial Plan included a copy of the budget that was very hard to read. Andrea Guzzetta recommended that the board review and vote on the plan via email so that members would have an opportunity to review the document. Carol Wheeler asked when the board could expect to receive the new draft of the resolution and was informed that it could be available the following day.

The board next reviewed the Treasurer's report and the CRI grant reports. There are currently fourteen properties in the pipeline for demolition through the Strategic Blight Removal program that will be operated using CRI Round 2 funding.

The Land Bank Board's ongoing action plan was the next item on the agenda. No immediate action was needed that had not previously been discussed; however, the board decided to move the May meeting out one week – subject to a review of members' schedules – to accommodate the members and staff who would be attending the Reclaiming Vacant Properties Conference.

Kim Jones asked about one of the proposed discussion topics on last month's meeting agenda that the board had not had time to discuss, the addition of members to the Land Bank board. Carol Wheeler suggested that board members think about what areas of expertise might be useful to add to the board and who might be able to provide them. It might also be worthwhile to discuss it at the Visioning Meeting with the Community Advisory Board. Kathy Sheets cautioned that as board composition was set by the Land Bank's bylaws and organizing documents, any change would need to go before City Council for approval. She suggested there might be a way to access any necessary expertise without adding members to the board and that discussion with the Community Advisory Board might provide some ideas.

The meeting was adjourned at 4:03 pm.

ATTEST: 
George Parker Secretary, Rochester Land Bank Corporation